

## **REMARKS**

Favorable reconsideration and allowance of this application are requested.

Claims 1-20 as presented with the Preliminary Amendment dated July 20, 2006 remain pending herein for consideration. No further amendments have been proffered.

### **1. Response to 35 USC §103(a) Issues**

Claims 1-7 and 10-18 attracted a rejection under 35 USC §103(a) as allegedly unpatentable over EP 1,444,960 (hereinafter referenced as "EP '960 publication"), while claims 8-9 and 19-20 attracted a rejection under the same statutory provision as allegedly unpatentable over the EP '960 publication in view of Peterson (USP 7,033,379). Applicants suggest that such rejections are inappropriate for the following reasons.

Applicants note that the EP '960 publication is the published EP counterpart to the previously cited US published application 2006/0135958. As the Examiner observed, the EP '960 publication was published August 11, 2004.

The present application is of course the US national phase entry under 35 USC §371 of International Application PCT/EP2005/000935 (hereinafter referenced as the PCT '935 application") which was filed on January 27, 2005 designating the United States and published in the English language under Article 21(2) as WO 2005/074826 on August 15, 2005. Thus, the subject US national phase application is entitled to the filing date of August 15, 2005 accorded to the PCT '935 application.

Moreover, the Examiner will observe that the PCT '935 application claims convention priority from EP Application 04075278.4 filed on January 30, 2004.<sup>1</sup> The

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<sup>1</sup> Applicants note that the Examiner has already acknowledged receipt of the certified copy of the priority document for this application, namely EP Application 04075278.4. Thus, since the priority EP application 04075278.4 was filed in the English language, the applicants' claim for priority to its January 30, 2004 filing date has been perfected.

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priority filing date of January 30, 2004 is of course ***before*** the effective publication date of August 11, 2004 for the EP '960 publication. As such, the EP '960 publication does not qualify as prior art against the present application.

Withdrawal of the rejections of record based on EP '960 alone and in combination with Peterson is therefore in order. Early passage of the subject application to issuance is solicited.

## **2. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

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